IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl..No. 4461 of 2007(P)

[CRIME NO.236 OF 2007 OF CHERPULASSERY POLICE STATION]

APPLICANT/ACCUSED NO.2

P.P.MOOSA, AGED 41 YEARS, S/O.MOIDU,
PALAKKAPARAMBIL HOUSE, P.O.NELLAYA,
PALAKKAD.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.PRASUN

RESPONDENTS: COMPLAINANT - STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/07/2007, ALONG WITH BA NOS.4473 OF 2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.4461,4464,4465 & 4473 of 2007

Dated this the 24th day of July 2007

O R D E R

Applications for anticipatory bail. It is alleged in four different crimes that the common petitioner has committed the offence of extraction of electrical energy punishable under the provisions of the Indian Electricity Act. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He submits that proceedings for recovery of the cost of the electrical energy allegedly extracted have already been initiated. The petitioner has paid part of the amount and preferred appeals. In these circumstances, it is absolutely unnecessary to insist on arrest and detention of the petitioner in custody, submits the learned counsel for the petitioner.

2. The learned Public Prosecutor does not oppose the application. It is only prayed that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation.

3. I take note of the fact that in the light of the decision in Paramasivam vs. Union of India [2007(2) KLT 733] cognizance cannot be taken by the learned Magistrate on the basis of any final report filed by the police but the power of the police to investigate the crime remains unfettered. I am satisfied, in these circumstances, that anticipatory bail can be granted to the petitioner subject to appropriate conditions.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 31/7/2007.

ii) He shall be released on regular bail on condition that he executes bond for Rs.1,00,000/- (Rupees one lakh only) in each case with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 01/08/2007 and 02/08/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of three months. Subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 31/7/2007, he shall be released from custody on his executing bond for Rs.1,00,000/- (Rupees one lakh only) in each case without any sureties, undertaking to appear before the learned Magistrate on 31/7/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007